CHUCK E. CHEESE'S University
Established 1977

SEXUAL HARASSMENT

"This manual was created and updated by your field trainers".
Any suggestions or feedback is always welcomed at 972/258-5449.

SEXUAL HARASSMENT PRE-TEST

Check the behaviors that constitute sexual harassment.

_____ 1. A male co-worker opens doors for a female co-worker.

_____ 2. A male supervisor picks up the check at lunch, despite the female employee's protests.

_____ 3. During an interview, a male interviewer asks a female job candidate if she and her husband plan to have children.

_____ 4. A waitress complains that a male supervisor often grabs some of her fellow waitresses while she is present.

_____ 5. A boss asks his secretary to buy family gifts, make his personal travel arrangements, bring his lunch and make coffee.

_____ 6. A female employee often wears short skirts and revealing blouses.

_____ 7. A frequent customer habitually pinches his female servers.

_____ 8. A group of male workers tell sexual jokes and tease the only woman in the work group.

_____ 9. A gay employee repeatedly makes passes at a male co-worker.

_____ 10. A female supervisor has a Playgirl calendar hung in her office.

_____ 11. A supervisor ignores a subordinate.

_____ 12. A supervisor gives a promotion to a subordinate with whom he is romantically involved.

_____ 13. A visiting computer repairman constantly leers at the female workers and badgers them for dates.

_____ 14. A sexually explicit cartoon hangs on the lunchroom bulletin board.

_____ 15. A male employee repeatedly asks a female co-worker for dates, sends her gifts, calls her at home, and writes her love letters, even though she shows no interest.

_____ 16. A supervisor reduces a hostess's hours and assigns her the least desirable shifts after she refuses to go out with them.

_____ 17. An ambitious male employee consents to have sex with his boss out of fear of losing his job.

_____ 18. All of an organization's top management positions are held by men.

_____ 19. Months after their consensual sexual relationship ends, an employee continues to make unwelcome sexual advances to a co-worker.

_____ 20. A restaurant requires female waitresses to wear short shorts and low-cut tee shirts.

ANSWERS TO THE SEXUAL HARASSMENT PRE-TEST

Items #4, 7, 8, 9, 10, 12, 13, 14, 15, 16 ,17, 19 and 20 could be construed as sexual harassment.

Items #12, 16 and 17 exemplify classic quid pro quo harassment.

Items #4, 7, 8, 9, 10, 13, 14, 15, 19 and 20 contribute to a hostile environment.

Although items #1, 2, 5 and 6 do not by themselves constitute sexual harassment, they can encourage the development of non-professional relationships and lead to harassing behavior.

Items #3, 11 and 18 may indicate traditional sex discrimination.

LAWS THAT GOVERN EMPLOYMENT

Title VII of the Civil Rights Act of 1964 prohibits discrimination against an individual with respect to conditions of employment because of the individual's race, color, religion, sex, national origin or disability. It covers all terms and conditions of employment and it holds the employer responsible for any discrimination that goes on within the employer's organization, including sexual harassment. This extends to every aspect of the employment relationship:

- Interviewing
- Hiring
- Benefits
- Counseling
- Training
- Promoting
- Demoting
- Reviewing Performance
- Pay Changes
- Terminations

Title VII is administered and enforced by the Equal Employment Opportunity Commission (EEOC).

Violations of this law can lead to:

- Discrimination claims filed with the EEOC
- Claims filed with the State Human Rights Commission
- Lawsuits filed with attorneys

Title VII of the 1964 Civil Rights Act as amended in 1972:
From the company's standpoint, even the smallest concern can quickly damage the Company's image and reputation.

Sexual harassment is a violation of federal law. The EEOC defines sexual harassment as:

Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature

The U.S. Supreme Court and the Equal Employment Opportunity Commission (EEOC) interpret sexual harassment as a form of sex discrimination; sexual harassment is therefore illegal.

DEFINING SEXUAL HARASSMENT

The Equal Employment Opportunity Commission (EEOC) Guidelines on Sexual Harassment in the Workplace, issued in 1980, define sexual harassment as follows:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1) submission to such conduct is made either explicitly or implicitly, a term or condition of an individual's employment;
2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals;
3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Two elements are necessary to make a harassment determination. The conduct MUST be sexual and unwelcome. To be considered sexual, the behavior involves the following:

- Must be sexual in nature, but does not have to involve sexual relations or requests for such.
- May be physical, verbal or visual
- May occur inside or outside the workplace
- Need not be directed at the complainant

Even voluntary behavior may be unwelcome, as long as the victim did not solicit it or incite it.

According to the EEOC guidelines, an employer is liable for sexually harassing acts in the following situations:

- By supervisory employees regardless of whether it authorized or forbade any action, and regardless of whether it knew or should have known of the action
- Between fellow employees when the employer knows or should have known about the conduct, unless it can show that it took immediate and appropriate corrective action.
- By non-employees when the employer knows or should have known about the conduct and failed to take immediate and appropriate corrective action.

Employers may also be held liable for a qualified employee's lost job opportunities when the supervisor has given a specific position or benefit to another employee who has submitted to their advances or with whom they have been romantically involved.

In addition to defining sexual harassment, the EEOC guidelines also direct employers to prevent sexual harassment through writing, communicating, and enforcing a sexual harassment policy, which defines sexual harassment and provides for a designated investigator and complaint-resolution procedures.

TYPES OF SEXUAL HARASSMENT

The courts recognize two types of sexual harassment, ***QUID PRO QUO*** and ***HOSTILE WORK ENVIRONMENT***.

QUID PRO QOU

Quid pro quo – "this for that" – is harassment in which submitting to a supervisor's sexual advances becomes necessary for getting or keeping a job. An employee's job security or advancement opportunities are linked to his or her acceptance of the supervisor's sexual advances.

The following are ingredients that would constitute quid pro quo harassment:

- **WHO** – The harasser must hold a position of authority over the victim so that job benefits or status can be used as a job-related threat or promise to coerce compliance with sexual requests, etc.
- **WHERE** – On site or off site at work-related functions, such as dinners, parties, meetings, business trips, training sessions, etc.
- **FREQUENCY** – One incident may constitute quid pro quo harassment.
- **DAMAGES** – The victim must show evidence of money loss, such as lost promotion, missed raises, or lost wages and benefits.
- **LIABILITY** – The employer is always liable for the sexual harassment of its managers and supervisors regardless of existing policies, management training, or "atmosphere of disapproval". Because an organization bestows on its supervisory personnel the power to hire, fire, promote, and discipline, it is liable for any abuses of that power, even if it was unaware of those abuses.

Managers and supervisors must be extremely careful NOT to engage in any behavior that could be deemed to be quid pro quo harassment.

HOSTILE ENVIRONMENT

In hostile work environment cases, an employee's psychological and emotional well-being and working environment are significantly impeded by "unwelcome sexual advances or verbal or physical conduct of a sexual nature" initiated or ignored by a supervisor, but without direct impact to the security of an employee's job. Hostile work environment may be claimed even if the offensive conduct is not directed at a complainant, as in an employee's exposure to co-workers' sexual jokes, teasing, etc. Lewd jokes, displays of sexually explicit materials, or frequent requests for dates or sexual favors may all contribute to a hostile work environment. Hostile environment may be argued even if the alleged harasser's conduct was unintentionally offensive.

The following are considered aspects of hostile environment:

- **WHO** – Harassers may be anyone - supervisors, co-workers, customers, clients, suppliers, or visitors. It may also be a number of employees who are responsible for creating a hostile environment.
- **WHERE** – Like quid pro quo harassment, hostile environment conduct may occur on site or off site at work-related functions.
- **FREQUENCY** – One instance is usually not enough to make a claim. Hostile environment harassment claims require repeated incidents or patterns of behavior. It must be continuous, frequent, repetitive, and part of an overall pattern. A "hostile environment" may be created in a few days or over the course of a few years.
- **DAMAGES** – Money or job benefits are rarely involved in hostile environment claims of harassment; however, offensive conduct must be so pervasive that it interferes with the victim's job performance and creates an abusive atmosphere.
- **LIABILITY** – Employer liability is determined by a close evaluation of the facts of each case. Employers may be liable, regardless of whether they witnessed the offensive conduct or display. "Notice" can be as direct as an employee's formal complaint or as indirect as rumor or the well-know existence of a high degree of sexual banter, joking, teasing, etc. Once the employer becomes aware of the alleged harassment, the speed and effectiveness of investigation and resolution of the problem also determines the degree of liability. Employer liability may also be lessened if the employer can demonstrate that the company has written and clearly communicated a strong policy against sexual harassment that provides for an effective complaint-resolution process. Liability also depends, in part, on the job level of the harasser. It the harasser is not a supervisor, the employer may be liable only if he or she failed to respond promptly and appropriately to the harassment situation. When a strict policy and complaint-resolution format exists, but employees making harassment claims have not taken advantage, courts have questioned the claimant's failure to exploit internal methods of clearly and firmly communicate a no-harassment position, employer liability is at its greatest as courts assume sexual harassment is tolerated and condoned in the workplace.

An employee's claim of sexual harassment may be pursued as a quid pro quo case, a hostile environment case, or both. Sexual harassment charges are evaluated by the courts on a case-by-case basis.

CONDUCTING AN INVESTIGATION

Harassment and discrimination claims can be a significant threat to any company. Federal and state laws prohibit harassment and discrimination, and courts are imposing civil liability on companies more and more. Having solid policies in place, mandating our Open Door Policy and being equipped with an Investigation Guide will allow us to deter harassment and discrimination from occurring. CEC does not tolerate harassment or discrimination of any kind. This Guide should help us ensure we promptly, thoroughly and completely investigate and document any allegations.

This guide has been developed to assist you in conducting investigations of any nature. This guide cannot be used alone and is not intended as a substitution for contacting Human Resources.

We have developed strong company policies to prohibit harassment and discrimination along with our complaint procedure to allow employees to make an internal complaint without fear of reprisal. These policies and procedures have been implemented so that all employees will use the complaint procedure so we are immediately aware of all inappropriate situations and can act quickly.

All supervisors are required to report any known or suspected harassment or discrimination to Human Resources and will be held accountable for failing to do so.

One of the most delicate situations that you may be called upon to handle is an employee complaint. Your response to the situation will set the tone for the entire investigation. Now let's review the investigation process to ensure we investigate all complaints promptly and thoroughly.

1) Take immediate steps upon receipt of a complaint from an employee. Once we have notice of harassment or discrimination directed to one of our employees or guests, we must act immediately.
   - Contact Human Resources before beginning any investigation.
   - The investigation should begin within twenty-four hours (whenever possible) after receiving the complaint.
   - The investigation itself must not be rushed. It should be conducted in a thorough and effective manner.
   - Take all complaints seriously. All complaints should be treated as valid until a thorough investigation proves otherwise.

2) The goal of the investigation is to learn the relevant facts in an unbiased manner.
   - A critical issue is who should conduct the investigation. The best persons are usually the General Manager, District Manager, Area Director, Regional Vice President or Human Resources.

- When deciding who is conducting the investigation, take into consideration bias, perceived bias, confidentiality, sensitivity, etc.
- The investigator and Human Resources Management working together should produce more reliable and objective results.

3) Thoroughly document the investigation efforts and results.
   - A file should be created that contains the investigator's notes, all documents and reports.
   - A written statement, signed and dated, should be taken from each person interviewed.
   - The investigator should keep notes from each interview. Remember to focus on specific behaviors, actions and statements. Do not focus on perceptions and feelings from witnesses.
   - Remember that all documents in the investigation file will be discoverable in any subsequent lawsuit. All of the investigator's documents should be thorough, even-handed, devoid of derogatory comments and factual.
   - All documents and information regarding the investigation should be kept strictly confidential. Keep the investigation file in a secure place during the investigation.

4) Interview the Complainant first.
   - Tell the employee or guest that CEC takes complaints seriously that is why we will be thoroughly investigating the complaint.
   - Tell the complainant that while we cannot ensure complete confidentiality, only those individuals with a "need to know" will be informed of the complaint, the investigation and it's results.
   - Tell the complainant that they must also keep this matter confidential so that we can conduct a thorough and unbiased investigation.
   - Ask the complainant to describe, in detail, what has occurred. Basic questions can be very important in setting a factual tone for the interview such as:
     - » When did this occur?
     - » Where did this happen?
     - » Who was involved? Who else was around?
     - » What happened?
     - » Why?
     - » How?
     - » Has the employee ever tried to stop the offensive behavior?
     - » Is the employee afraid of retaliation?
   - Each detail, event, substantiating factor and witness, date and time, as well as the effect of the discrimination or harassment on the complainant should be documented. If the complainant will write and sign a statement, or initial the investigator's notes, he/she should do so.
   - Ask the complainant what he/she believes to be the appropriate action to prevent further reoccurrence of the harassment or discrimination occurring. Find out what the complainant's expectations are.

- Ask the complainant to provide you with all documents, diaries, notes, journals, e-mails, etc. that may help you during your investigation.
- Explain what we are going to do with the employee's complaint and when you will get back to them.

5) Interview the Accused and prohibit retaliation.

- Interview the accused second.
- Advise him/her that CEC is investigating the complaint to determine the accuracy of the allegations.
- Tell the accused that they must also keep this matter confidential so that we can conduct a thorough and unbiased investigation.
- Describe the basis of the complaint without providing detail that may compromise the complainant's confidentiality.
- Ask the accused to respond to the complaint. All information should be documented. Ask the accused to write and sign a statement, or initial the investigator's notes.
- Ask the accused to provide you with all documents, diaries, notes, journals, e-mails, etc. that may help you during your investigation.
- Do not offer, even if asked, advice on the merits of any claims or potential lawsuits.

6) Interview the Witness(s).

- Develop a list of people to be interviewed based upon those identified by the complainant and accused as well as others who may have information related to the situation. For example: If the event was an isolated incident occurring on a specific day, we may want to interview other employees who worked that day.
- Tell each person interviewed that they must also keep this matter confidential so that we can conduct a thorough and unbiased investigation.
- Describe the basis of the complaint without providing detail that may compromise the complainant's confidentiality. It is appropriate to ask general questions such as "have you seen any behavior in the restaurant which could be perceived as sexual harassment?"
- Ask each person to provide any information or insight they may have to the situation. All information should be documented. Ask each person interviewed to write and sign a statement, or initial the investigator's notes.
- Ask for any documents, diaries, notes, journals, e-mails, etc. that may help you during your investigation.
- Do not offer, even if asked, advice on the merits of any claims or potential lawsuits.

7) Evaluate the facts and make a determination.

- Once the investigation is completed, all data, facts and documents must be reviewed and evaluated by the Investigator and Human Resources Management.
- A reasonable determination must be made regarding any violation of law or company policy as well as appropriate remedial action.
- The following factors should be considered when making the determination:

  » "Reasonable person perspective": Neither the intention of the accused nor sensitivity of the recipient is relevant. If a reasonable person of the same gender would take offense to the conduct, it should be concluded that harassment has taken place.

  » "Welcome" versus "unwelcome" conduct: Not all sexual remarks or conduct in the workplace are prohibited; only those comments or behaviors that are unwelcome from the viewpoint of the "reasonable person" of the same gender are prohibited. "Unwelcome conduct" is that which the complainant did not solicit or encourage and that which he/she regards as undesirable or offensive.

  » "Good Faith": It is CEC's duty to act in good faith in determining what occurred. Particularly in situations where no corroborating evidence or witnesses exist, we should be able to show we have acted reasonable and in good faith.

- A determination must be made regarding the validity of the complaint.
- Human Resources Management will input all information gathered during the investigation into the claims reporting system. Human Resources will also prepare a document showing the conclusion of the investigation, disciplinary action appropriate and recommendations to prevent further situations from occurring.

8) Imposing discipline

- All valid charges of harassment or discrimination must be responded to with prompt and effective remedial action up to and including termination.
- The disciplinary action must be fair, appropriate for the circumstances, and consistently applied. This means that the discipline used in this situation should be consistent with the discipline imposed in past similar situations.
- It is important that the level of discipline is evaluated on a case-by-case basis. Considerations include:

  » If the accused has been warned before
  » The seriousness of the situation

- Possible disciplinary actions can include oral warning, written warning, transfers, demotions or termination. At a minimum, a warning should be given to the accused that states that harassment and discrimination are prohibited by policy and that any substantiated complaints could lead to disciplinary action including termination.

- The disciplinary action chosen must be documented and reviewed by Human Resources Management prior to enactment.
- All documentation will be placed in the investigation file and in the accused's personnel file to verify the discipline imposed.
- We must take prompt and effective remedial action to correct the situation.

9) Advise the Complainant of the actions taken.

- Advise the complainant that the investigation has concluded and what actions were taken, if any.
- Ask the complainant if they feel the outcome of the investigation is appropriate. If they do not, discuss what else they feel should be done.
- Remind the complainant that all information related to this investigation must remain confidential.
- Reassure the individual that there will be no retaliation, and that any perceived retaliation or repeat of the offensive behavior should be reported immediately.

10) Take action to prevent further situations.

- Ensure all reasonable steps are taken to prevent future situations from occurring.
- If the investigation finds that harassment or discrimination did take place, ensure CEC's policy is re-communicated to all employees in that location.
- Document any additional training provided.

11) Follow-up.

- Follow up with the complainant within a reasonable time following the investigation (one to three months later), to ensure that no further harassment, discrimination or retaliation has occurred.

INCREASING MANAGEMENT AWARENESS

We all want to work in an environment that is comfortable. We all enjoy our work when we have fun while working with people we respect. No one likes to experience conflicts or discomfort at work. As a manager, it is your responsibility to ensure that all employees in your restaurant are working in a comfortable, professional environment. You don't have to take the fun out of your restaurant to avoid problems such as sexual harassment. You do; however, need to use common sense and good judgment.

The Company has a solid harassment policy. You must take additional steps to create and maintain a positive work environment free from harassment and discrimination of all kinds.

- Train all members of the restaurant team, including fellow managers, about the Company's policies concerning harassment.
- Create a good communication environment. Make employees aware that you welcome their questions and concerns. Make sure everyone knows about our Open Door Policy and the opportunities available to them if they do have a problem.
- Let everyone know that you want to help solve problems. If they become aware of a situation that has made them or a co-worked uncomfortable at work (or outside work with co-workers), they should feel comfortable telling you about it.
- Keep your eyes and ears open. Be sensitive to any signals that may mean trouble. If you think someone is troubled, ask if there's a problem – "Is anything wrong?" You can't wait for their formal complaint.

A key step in building a healthy work environment is to actively gather information about the current state of affairs in your restaurant. All managers should look and listen for indications of **potential** sexual harassment by doing the following:

- Walking the floor – listen for sexual banter, potentially harassing exchanges between employees, etc. Also, look for sexually inappropriate or offensive visual displays – magazines, posters, calendars, articles, cartoons, graffiti, etc.
- Evaluate rumors and innuendo – while characteristically exaggerated and elaborated, rumors may include threads of truth, particularly when the same names keep coming up.

YOUR PERSONAL LIABILITY AS A MANAGER

Civil lawsuits frequently bring both employers and individual managers exposure to costly legal expenses and damages. As a manager in our company, you represent the company when performing your job duties. Therefore, the company would be considered liable for your actions in many situations. Your personal liability would be determined by the severity of your actions and whether the company followed prescribed procedures in handling sexual harassment issues.

The company's responsibilities in the area of sexual harassment are clear:

- Maintain a clear policy regarding sexual harassment and communicate it throughout the organization.
- Define procedures for prompt investigation of sexual harassment claims that allow employees to bring forward claims without fear of retaliation.
- Investigate sexual harassment claims promptly and take corrective action when it is necessary.

When assigning responsibility in a sexual harassment lawsuit, the judge and/or jury who believe that sexual harassment has occurred will look closely at the company's actions to prevent and solve sexual harassment problems. In a case where the manager clearly violated the company's policy, an investigation was promptly conducted, and the company took prompt disciplinary action, the judge and/or jury may find the company is not responsible for the damages that the employee suffered as a result of the sexual harassment. Instead, they may find that the individual manager is solely responsible and therefore order him or her to pay the employee the specific damages awarded.

We discussed earlier that when it is discovered that a manager's behavior has violated the company's policy regarding sexual harassment, the disciplinary action taken will be determined by the severity of the harassment. In the event a serious violation of the policy has occurred, the manager may be terminated. If the manager is terminated, the company will not provide any legal defense should a lawsuit be filed against the manager. The manager would be required to retain their own legal counsel and would be responsible for paying the related costs to defend the lawsuit against them.

TO PREVENT CHARGES OF DISCRIMINATION OR HARASSMENT

- TWO GOLDEN RULES
  - » Be consistent
  - » Document, document, document

Be Consistent

Consistent/Fair Treatment of all employees – it is not so much what you do, but how you do I, and whether your conduct and decisions would appear to be fair and neutral to a third party.

Document, Document, Document

Documentation – employee work performance problems, and actions taken for any type of employee related situations should be documented. Consistent or inconsistent treatment without proper documentation leads to rulings of discrimination and harassment.

SEXUAL HARASSMENT TRAINING ACKNOWLEDGEMENT

I have reviewed the Sexual Harassment Policy and Information provided by CEC Entertainment, Inc. dba Chuck E. Cheese's. During the program, I received information concerning the company's policy on sexual harassment and procedures for investigation and resolution of sexual harassment issues. I also was given information concerning my responsibilities as a manager with CEC Entertainment, Inc. to report all sexual harassment issues and claims to the Human Resources Department for guidance and direction in the investigation and resolution of any sexual harassment issues and claims.

I understand that if I violate the company's policy regarding sexual harassment, I may be subject to disciplinary action up to an including termination. I understand that the company's Open Door Policy allows any employee to contact any member of the management team regarding any concern or problem without fear of reprisal. Supervisors will not penalize or threaten an employee about speaking to anyone in the company and retaliation toward an employee for raising a concern or complaint is strictly prohibited.

Date training conducted: _____

Location training occurred: _____

Training conducted by: _____

Signature of Participant: _____

Printed name of Participant: _____